

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the matter of the)	
)	
Comprehensive 2002 biennial)	
review of telecommunications regulations)	WC Docket 02-313
pursuant to Section 11 of the Communications)	
Act of 1934, as amended, 47 U.S.C. § 161)	

**2002 Biennial Review
Comments of the Wyoming Public Service Commission
(October 17, 2002)**

The Wyoming Public Service Commission (Wyoming PSC) hereby submits its Comments in response to the Federal Communications Commission's (Commission) Request for Comments (Request) in 2002 Biennial Review of Telecommunications Regulations Within the Purview of the Wireline Competition Bureau. The Wyoming PSC is the agency of the State of Wyoming that has jurisdiction to regulate, *inter alia*, intrastate telecommunications companies serving in Wyoming. Our regulatory authority covers a wide variety of activities, including quality of service, accounting and reporting requirements, rate offerings, and competitive standards. As such, the Wyoming PSC is an interested party in this proceeding.

The Commission's September 26, 2002, Request in this docket sought comment on what rules should be modified or repealed as part of the 2002 biennial review. Also sought were comments on recommended changes to rules that might enable the Commission to operate more efficiently and effectively. As stated in the Request, the Commission's inquiry goes beyond whether the change is needed due to the existence of meaningful economic competition alone, as required by Section 402 of the 1996 Telecommunications Act, and expands its inquiry to look at changes that would "serve the public interest." As provided on the Attachment to the Request, this review includes many items that are jointly relied upon by federal and state regulators in performing their duties to regulate telecommunications utilities and to protect the public interest. The inquiry is broad and includes many items beyond those that we focus on in these Comments. At this time, we wish to focus only on: the Uniform System of Accounts for

Telecommunications Companies, Jurisdictional Separations Procedures, Preservation of Records of Communications Common Carriers, and Reports of Communication Common Carriers and Certain Affiliates.

Scope of Biennial Review

Section 402 of the 1996 Telecommunications Act calls for the Commission to conduct biennial reviews to “determine whether any such regulation is no longer necessary in the public interest as the result of meaningful competition between providers of such service.” Of course, the Commission has the right to expand that inquiry into one based not solely on the state of competitive markets, but also on the public interest standard itself, as it has chosen to do in this proceeding. The Wyoming PSC, however, is concerned about making the biennial review too expansive. We believe that the Act’s call to study regulations made unnecessary by the development of competition is the proper focus for this inquiry. In our view, enlarging the ambit of the review unnecessarily and unreasonably changes the focus of the proceeding. It invites complaints about every form, account, tariff filing, regulatory question, and regulatory decision, whether or not it is relevant to the overall rule or filing requirement. It takes away from the truly necessary Commission focus on what federal and state regulators continue to need to regulate effectively as the market structure and market participants change. The focus of the inquiry should be on what is to remain intact for the next two years. We recommend that the Commission refocus its examination of its rules and regulations based on the language of the Act, rather than on a broader reading of the public interest standard.

If the Commission does determine that it is appropriate to continue its review in this proceeding based on the public interest standard, then it should invite not only a discussion of rules that should be changed or eliminated to address the changing needs of federal and state regulators, but should also invite comment on whether any rules or regulations, or accounting and reporting requirements should be *added or expanded* to best address the needs of regulators today.

We disagree with the argument that regulation is becoming a relic of the past and that regulators should be apologetic for continuing to furnish utility oversight. Although its role has clearly evolved over the years, regulation is still needed *at least* until the time that markets

become fully competitive. At that point there will be a need for arbitration of carrier disputes, for administration of universal service programs, for information and dispute resolution for consumers and for other services. Because our role continues to change, our data needs will change. We expect the emphasis in the future to be on more quality of service and wholesale versus retail data. The need for data on the impact of internet access on traffic patterns, and for specific market share information will probably increase. Hence, we recommend that, when the Commission discusses changes to regulations in its inquiry, it should be open to needed changes that may, in certain areas, be expansions of requirements rather than always focusing on what can be eliminated.

The Commission should be aware of not only its own needs as a federal regulator, but also of the needs of state commissions for data that might most efficiently be obtained at the federal level. The 1996 Telecommunications Act and ensuing events have shown that the regulation of telecommunications is a partnership among federal and state regulators. The markets are becoming more complex and many “bright line” federal/state distinctions are no longer relevant. This provides us with a factual and inescapable mandate that we must work with each other. This is abundantly clear in the areas of accounting and reporting.

Accounting and Reporting Issues

For many items, it makes the most sense to continue to have data filed at the federal level, rather than at the individual state level. The majority of states have adopted the Uniform System of Accounts for Telecommunications Companies. If the Commission were to modify this in a substantial or adverse way relative to the needs of the states, the states would be required to reexamine their individual accounting needs, perhaps forcing an administrative nightmare for the companies who would be required to track separate accounting requirements in each state. This would create one of the “unnecessary regulatory expenses” decried by the telecommunications industry; and it could have a negative effect on the public interest for individual states. If the accounting is different in each jurisdiction and there is no national standard, a state might easily *not* be able to assure itself and its citizens that a company is financially sound and yet is not extracting monopoly profits. The lack of a uniform standard keeps investors from gaining any assurance that a company is not “gaming” its earnings in a

particular state or before a regulatory body. Problems will arise if no one is sure what the accounting is because national standards have either been eliminated or watered down to the extent that they are meaningless. How does productivity in the telecommunications market continue to make gains if each regulatory commission must administer an entirely new -- and probably different -- set of accounting standards, imposing additional costs on states and the industry alike?

In previous proceedings, the Commission has questioned whether the national data collected by the Commission is actually used and essential to the states. We argue that it is. We are aware of states that have made analyses of comparing their state operations to the larger whole, and the Wyoming PSC staff has previously been involved in such an analysis with some of its neighboring states. The data is valuable and often used in Wyoming. We have seen testimony in Wyoming hearings based upon the Commission's market share reports, with the testimony addressing questions of the state of competition in our market. We have relied on the data to respond to questions about the use of UNE-P's in the competitive market. We have seen the data used to offer universal service proposals and to examine the affordability of rates. Comparative quality of service data, as found on some of the carrier's ARMIS reports, is also widely used. Quality of service became a significant point of discussion in many of the states Section 271 reviews, and often, the starting point was the data available from ARMIS. Likewise, ARMIS data can assist in reviewing wholesale prices and discounts that are determined by the states under the 1996 Telecommunications Act. The use of this national accounting and reporting data is extensive and should not be eliminated on a casual basis or without good cause. It should be considered only *after* discussions with state regulators.

We recommend that any proposals to modify, shrink, or expand current accounting and reporting requirements not be acted upon by the Commission until they have been referred to the Federal-State Joint Conference on Accounting Issues for comment and recommendation. To do otherwise would negate the basic purpose of the Joint Conference. As the Commission recently stated when it established the Joint Conference, its purpose is "to further the development of improved regulatory accounting and reporting requirements and ensure that data filed by carriers are adequate, truthful, and thorough." We should let the newly developed process work.

Similarly, we recommend that the Commission take this opportunity for further review of its recently completed accounting modifications by placing them on hold and referring them to the Joint Conference for review and comment before the currently scheduled implementation date. We refer here to the changes implemented in the *Phase II Accounting Reform* proceeding, which are scheduled for implementation beginning January 1, 2003. While we appreciate the Commission's consideration in recognizing the need to add some specific accounts as part of its decision, there is still genuine controversy over the elimination of accounts that some jurisdictions argue are still needed to fulfill their regulatory responsibilities. Because federal and state regulators are familiar with these issues, we believe the review of this earlier decision could be undertaken expeditiously after another round of comments from interested parties. However, if the Commission does not suspend the implementation date of its earlier decision, some information will be lost forever because some carriers will discontinue tracking some information in anticipation of implementation. We believe it would be better to be cautious and allow data collection to continue until the Joint Conference can conduct a review.

Similarly, the Commission should obtain input from the Federal-State Joint Board on Separations before making jurisdictional separations changes. This body has been considering the issue of separations changes for some time, and has recently taken comments on what the future of separations should be. Any work done by the Commission in this biennial review should be closely coordinated with the existing work of the Joint Board on Separations.

We have chosen to focus our comments on selected accounting and reporting subjects. However, our lack of specific comment on the other categories subject to review should not be taken as a tacit agreement to changes in or the elimination of rules and requirements in these other important areas. We believe that the regulation of telecommunications *must* be done as a partnership of the FCC and the states. Changes must be thoroughly examined, discussed among the federal and state regulators, and viewed from a public interest standard before being implemented. Experience has shown that this can be done efficiently and expeditiously. While there are pockets of vigorous local service competition, it is not yet widespread throughout the nation. We must be vigilant in fulfilling our oversight obligations regarding essential local services while the market continues its transition from a monopolistic environment to a fully competitive market. To eliminate the tools necessary for oversight before the transition is

completed could sound the death knell for competition before it even has an opportunity to develop. We ask you to be cautious in the changes you consider and to allow a full examination of the changes before they are implemented.

Regarding changes to your Accounting and Reporting Standards, we suggest that any proposals resulting from this comment process be sent directly to the appropriate Joint Board or Joint Conference for consideration. The value of Joint Boards and Joint Conferences is lost if changes are made by the Commission outside of the established federal-state partnership.

Respectfully Submitted,

STEVE ELLENBECKER
Chairman

STEVE FURTNEY
Deputy Chair

KRISTIN H. LEE
Commissioner

**Certificate of Service regarding the
Comments of the Wyoming Public Service Commission
(Dated October 17, 2002)**

I, Stephen G. Oxley, hereby certify that, on October 17, 2002, I served true and complete copies of the Comments of the Wyoming Public Service Commission on the Federal Communications Commission (Commission), as directed by the Commission's Public Notice in the above-captioned proceeding, by means of the Commission's ECFS system.

October 17, 2002

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